

FILED
AUG 10 2010
By PATRICK E. DUFFY, CLERK
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

GARY TREMBLAY,)	CV 09-15-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
SGT. ERIC LAPIER, SGT. CRYSTAL)	
FOSTER, UM GREG BUDD, CO DAVE)	
HARRIS, KRISTI BOESE, FNP CAPT.)	
SCOTT MCNEIL, MYRON BEESON,)	
and CHRIS CONELL,)	
)	
Defendants.)	
)	

On July 12, 2010, Plaintiff Gary Tremblay filed his fourth motion for appointment of counsel. In his motion, Tremblay stated "I am respectfully requesting that the court appoint me an attorney because I do not know my way around the courts and procedures." Pl.'s Mot. (dkt # 30).

Magistrate Judge Strong denied the nondispositive matter, noting Tremblay's motion is no different than his three prior motions for counsel in which he failed to show any exceptional circumstances justifying the appointment

of counsel. Order 3 (dkt #31).

On August 4, 2010, Tremblay filed an "appeal" of Judge Strong's Order. The Court construes this to be an objection under Fed. R. Civ. P. 72(a). The Court may reconsider such an order if a party shows it "is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A).

In support of his objection, Tremblay notes that (1) he lacks the requisite legal knowledge to bring his claim, and (2) because he is incarcerated he needs counsel to obtain records, witness interviews, and obtain and serve subpoenas.

I find no clear error or legal mistake to Judge Strong's Order. Tremblay has failed to show "exceptional circumstances" justifying the appointment of counsel consistent with Terrell v. Brewer, 935 F.2d 1015 (9th Cir. 1991). Needing assistance to conduct discovery or serve subpoenas does not suffice. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th cir. 1986).

Accordingly, IT IS HEREBY ORDERED that Plaintiff Tremblay's Appeal: Motion for Court Appointed Counsel (dkt #33) is DENIED.

Dated this 10th day of August, 2010.



Donald W. Molloy, District Judge
United States District Court